

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No. 7,620,363 B2)	
)	
Inventors: SPURGAT et al.)	Confirmation No.: 2468
)	
Issue Date: November 17, 2009)	
)	
For: PROXIMITY SYNCHRONIZATION)	
OF AUDIO CONTENT AMONG)	
MULTIPLE PLAYBACK AND)	
STORAGE DEVICES)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPLICATION FOR PATENT TERM ADJUSTMENT - POST GRANT

The Office issued the subject U.S. Patent No. 7,620,363 (the '363 patent) with a patent term adjustment of 405 days.

The Application was filed on May 16, 2001. The first Office Action on the merits was mailed on April 7, 2004, creating a U.S. Patent and Trademark Office (USPTO) delay of 631 days. A response was filed on July 12, 2004, creating an Applicant delay of 5 days. A Final Office Action was mailed on January 12, 2005, creating a USPTO delay of 61 days. A Request for Continued Examination (RCE) was filed on June 13, 2005, creating an Applicant delay of 62 days. An Office Action was mailed on June 30, 2005. A response was filed on September 30, 2005. A Final Office Action was mailed on December 13, 2005. An RCE was filed on May 18, 2006, creating an Applicant delay of 66 days. An Office Action was mailed on June 8, 2006. A response was filed on October 10, 2006, creating an Applicant delay of

32 days. An Office Action was mailed January 4, 2007. A response was filed on June 4, 2007, creating an Applicant delay of 61 days. An Office Action was mailed on August 24, 2007. A response was filed on February 25, 2008, creating an Applicant delay of 93 days. A Notice of Informal or Non-Responsive Amendment was mailed on March 20, 2008. A response was filed on March 26, 2008, creating an Applicant delay of 30 days. A Final Office Action was mailed on December 23, 2008, creating a USPTO delay of 150 days. An RCE was filed on June 19, 2009, creating an Applicant delay of 88 days. A Notice of Allowance was mailed on July 10, 2009. The issue fee was paid on October 9, 2009. The '363 patent issued on November 17, 2009.

The three year pendency date for determination of patent term adjustment is May 16, 2004. The application remained pending for 393 days after three-years from the filing date until the first RCE was filed.


In view of the decision of the Federal District Court for the District of Columbia in *Wyeth v. Dudas* on September 30, 2008, which was recently affirmed on appeal by the Court of Appeals for the Federal Circuit, patentee submits it is entitled to a total patent term adjustment of 798 days, which is the sum of 393 days of patent term adjustment due to exceeding three year pendency until the first RCE was filed and 405 days due to USPTO delay in prosecution (i.e., 842 days of USPTO delay offset by 437 days of Applicant delay).

The patent term adjustment fee of \$200.00 is enclosed. If there are any additional fees due in connection with the filing of this request, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: January 19, 2010
(January 17 = Sunday and
January 18 = Federal Holiday)

By: 
Arthur A. Smith
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